

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeene G. Kelly.

ISO New England Inc.

Docket Nos. ER05-134-000  
ER05-134-001  
ER05-134-002  
EL05-91-000

ORDER ACCEPTING UNCONTESTED SETTLEMENT

(Issued October 21, 2005)

1. On July 29, 2005, as corrected on September 16, 2005, ISO New England Inc. (ISO-NE) filed on behalf of itself and other parties to this proceeding an offer of settlement and settlement agreement. The parties state that the settlement resolves all issues set for hearing, namely, the rate design for ISO-NE's Reliability Administrative Service charge. Comments were filed on August 5, 2005 by the New England Power Pool Participants Committee and on August 18, 2005 by Commission Trial Staff. On September 21, 2005, the Presiding Administrative Law Judge certified the settlement to the Commission as uncontested.

2. The Commission finds that the subject settlement is in the public interest and is hereby approved. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

3. The rate schedule submitted as part of the settlement is properly designated and is accepted for filing and made effective as set forth in the Settlement. *See Order No. 614, Designation of Electric Rate Schedule Sheets*, FERC Stats. & Regs. Preambles July 1996 – December 2000 ¶ 31,096 (2000). This order terminates Docket Nos. ER05-134-000, ER05-134-001, ER05-134-002 and Docket No. EL05-91-000.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England

Docket Nos. ER05-134-000  
ER05-134-001  
ER05-134-002  
EL05-91-000

(Issued October 21, 2005)

KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it approves a settlement that provides the standard of review for any modifications to this Settlement Agreement that are not agreed to by all the Parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the “public interest” standard under the *Mobile-Sierra* Doctrine.

---

Suedeem G. Kelly